

Shindamara



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Cardinal Air Conditioning Co., Inc.

File: B-226636

Date: April 9, 1987

DIGEST

General Accounting Office will not review Small Business Administration's issuance of a certificate of competency absent a showing of possible fraud or bad faith on the part of government officials.

DECISION

Cardinal Air Conditioning Co., Inc., protests the proposed award of a contract to Metro Air Conditioning Co. under invitation for bids (IFB) No. DAAL04-86-B-0046, issued as a total small business set-aside by the Department of the Army for maintenance work at the Materials Technology Laboratory in Watertown, Massachusetts. Cardinal contends that Metro does not meet the IFB's experience requirement.

We dismiss the protest.

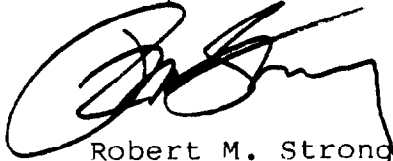
The IFB required that a bidder submit three references for recent work of a similar nature to that involved in the procurement. On the basis of Metro's submission, the contracting officer determined that Metro was nonresponsible because its prior experience was not comparable to the work required by the IFB. Since Metro is a small business, the contracting officer referred the nonresponsibility determination to the Small Business Administration (SBA) for consideration under the certificate of competency (COC) procedures. The SBA determined that Metro was responsible and issued a COC on March 18, 1987. The Army therefore proposes to award the contract to Metro but has withheld award because of Cardinal's protest.

The Small Business Act, 15 U.S.C. § 637(b)(7) (1982), requires that where, as here, a contracting officer finds a small business to be nonresponsible, he must refer the matter

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to the SBA under the COC procedures, and further provides that if the SBA determines that the bidder is responsible by issuing a COC that decision is conclusive. In view of the SBA's conclusive authority, we will not review an SBA decision to issue a COC unless there is a showing of possible fraud or bad faith on the part of government officials. 4 C.F.R. § 21.3(f)(3) (1986). Cardinal has not so alleged.

The protest is dismissed.

A handwritten signature in black ink, appearing to read "R. Strong", is written over the typed name.

Robert M. Strong
Deputy Associate
General Counsel